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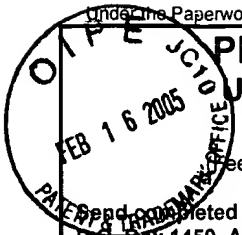

PROCESSING FEE Under 37 CFR 1.17(i) TRANSMITTAL

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Application Number	09/925,548
Filing Date	August 8, 2001
First Named Inventor	YEE, ARTHUR
Art Unit	1632
Examiner Name	CHEN, SHIN LIN
Attorney Docket Number	KINE-001CIP4

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§ 1.48 - for correcting inventorship, except in provisional applications.
§ 1.52(d) - for processing a nonprovisional application filed with a specification in a language other than English.
§ 1.53(b)(3) - to convert a provisional application filed under § 1.53(c) into a nonprovisional application under § 1.53(b).
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§ 1.99(e) - for processing a belated submission under § 1.99.
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§ 1.497(d) - for filing an oath or declaration pursuant to 35 U.S.C. 371(c)(4) naming an inventive entity different from the inventive entity set forth in the international stage.
§ 3.81 - for a patent to issue to assignee, assignment submitted after payment of the issue fee.

Pamela Sherwood
Signature

02-16-2005
Date

Pamela J. Sherwood
Typed or printed name

36,677
Registration No., if applicable

This collection of information is required by 37 CFR 1.17. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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PETITION under 37 C.F.R. 1.181		
	Attorney Docket No.	KINE-001CIP4
	Confirmation No.	5127
	First Named Inventor	YEE, ARTHUR
	Application Number	09/925,548
	Filing Date	August 8, 2001
	Group Art Unit	1632
	Examiner Name	CHEN, SHIN LIN
	Title:	*"INTEGRIN-LINKED KINASE AND ITS USES"*

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request the Commissioner to review the restriction requirement in the above-captioned patent application.

The claims of the present application were subjected to a restriction in the Office Communication of January 29, 2003, in which the claims were divided into two groups; Group I being oligonucleotide compositions; and Group II being methods of use thereof. The communication further stated that upon election of a group, further restriction would be required and Applicant would be required to select a single SEQ ID NO for examination.

The basis for the restriction was stated to be as follows:

> The instant oligonucleotide sequences (SEQ ID Nos. 13 to 109) are considered to be unrelated, since each oligonucleotide sequence claimed is structurally and functionally independent and distinct for the following reasons: each oligonucleotide sequence has a unique nucleotide sequence, each oligonucleotide sequence targets a different and specific region of the gene, and each oligonucleotide, upon binding to a gene sequence, can function as a primer or as a probe for different purposes, or can functionally modulates (increases or decreases) the expression of the gene and to varying degrees. Furthermore, a search of more than one oligonucleotide sequence presents an undue burden on the Patent and Trademark Office due to the complex nature of the search and corresponding examination of more than one oligonucleotide sequences.

In accordance with 37 C.F.R. 1.144, Applicants elected the invention of Group I, SEQ ID NO:16 for examination, with traverse. Applicants respectfully submit that it is improper to divide each of the sequences set forth in the present application because the sequences are short fragments from a common coding sequence (SEQ ID NO:1). As set forth in the M.P.E.P. 803.04, "nucleotide sequences encoding the same protein are not considered to be independent and distinct inventions and will continue to be examined together." Applicants further submitted that the invention of Group I and Group II were properly rejoined, as a composition and method of use.

The Restriction was made final in the Office Action of May 29, 2003. Applicants maintained the

traversal of the restriction with respect to the individual oligonucleotide sequences in the response submitted August 27, 2003, although the method claims were canceled with that response.

The Office Action of August 16, 2004 stated that SEQ ID NO:6 was in condition for allowance, however the Action stated that Claims 3 and 4 were objected to as containing non-elected subject matter. The restriction requirement was maintained, and in addition the Examiner has stated that oligonucleotides complementary to the 3' or 5' untranslated region of an ILK gene were patentably distinct from the coding sequence of the ILK gene.

Applicants respectfully request a review of the Restriction Requirement and rejoinder of the oligonucleotide sequences set forth in Claims 3 and 4.

All of the presently claimed oligonucleotide sequences are short, defined fragments of the larger sequence, SEQ ID NO:1. SEQ ID NO:1 is a cDNA derived from an mRNA transcript of the integrin linked kinase (ILK). The sequences are therefore all related, in that they are a subset of the ILK cDNA, which cDNA sequence encodes the ILK polypeptide.

In other words, all of the claimed antisense oligonucleotides share the feature that they bind to, and inhibit the expression of, the same mRNA transcript (SEQ ID NO:1).

Applicants respectfully submit that the sequences set forth in Claims 3 and 4 share a common function, and are related as being fragments of a single entity that encodes a single polypeptide. Rejoinder of the sequences is requested.

In the event that such rejoinder is not granted, Applicants respectfully request that ten of the oligonucleotide sequences be rejoined in the present claims. As set forth in M.P.E.P. 803.04 – "Nucleotide Sequences",

> Absent evidence to the contrary, each such nucleotide sequence is presumed to represent an independent and distinct invention, subject to a restriction requirement pursuant to **35 U.S.C. 121** and **37 CFR 1.141** *et seq.* Nevertheless, to further aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, the Commissioner has decided *sua sponte* to partially waive the requirements of **37 CFR 1.141** *et seq.* and permit a reasonable number of such nucleotide sequences to be claimed in a single application. See *Examination of Patent Applications Containing Nucleotide Sequences,* 1192 O.G. 68 (November 19, 1996).
>
> It has been determined that normally ten sequences constitute a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction. In addition to the specifically selected sequences, those sequences which are patentably indistinct from the selected sequences will also be examined.

Applicants respectfully submit that if the sequences set forth in Claims 3 and 4 are deemed to

be independent and distinct, then a reasonable number of such sequences, stated in the M.P.E.P. t be ten, should be considered.

Review of the restriction and rejoinder is thus requested.

The Commissioner is hereby authorized to charge any other fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, order number KINE-001CIP4.

Respectfully submitted,

Date: February 16, 2005

By: _____
Pamela J. Sherwood, Ph.D.
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